

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

RECEIVED

AUG 15 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

DOCKET FILE COPY ORIGINAL

In the Matter of

Geographic Partitioning and Spectrum
Disaggregation by Commercial Mobile
Radio Services Licensees

Implementation of Section 257 of the
Communications Act -
Elimination of Market Entry Barriers

WT Docket No. 96-148 /

GN Docket No. 96-113

To: The Commission

COMMENTS
OF
THE NATIONAL RURAL TELECOMMUNICATIONS COOPERATIVE

Pursuant to Section 1.430 of the rules and regulations of the Federal Communications Commission ("FCC," or "Commission"), the National Rural Telecommunications Cooperative ("NRTC"), by its attorneys, hereby submits these Comments concerning the above-captioned proceeding.¹ NRTC supports the Commission's proposals to allow PCS licensees to partition geographic territory and to disaggregate spectrum encompassed within their initial PCS licenses. Because NRTC believes that the Commission's proposals will promote the development of new

¹ Notice of Proposed Rulemaking ("Notice"), 61 Fed. Reg. at 38693, July 25, 1996.

Noted Copies rec'd
LRR:PODDE

049

telecommunications services in rural America, NRTC may wish to explore the possibility of serving as an information clearinghouse concerning partitioned or disaggregated spectrum of interest to its membership in particular geographic areas.

I. BACKGROUND

1. NRTC is a non-profit cooperative association comprised of 521 rural electric cooperatives and 231 rural telephone systems located throughout 48 states. NRTC's mission is to assist its members and affiliates in meeting the telecommunications needs of more than 60 million American consumers living in rural areas. Through the use of satellite distribution technology, NRTC currently is committed to extending the benefits of information, education and entertainment programming to rural America -- on an affordable basis and in an easy and convenient manner -- just as those services are available in more populated areas of the country. NRTC seeks to ensure that rural Americans receive the same benefits of the information age as their urban counterparts.

2. Under an agreement with DirecTV, Inc., NRTC, its members, and affiliated companies market and distribute up to 150 channels of popular cable and broadcast programming ("DirecTV®") to more than 400,000 rural households equipped with 18" direct broadcast satellite (DBS) receiving antennas. Using C-Band technology, NRTC and its members also market and distribute packages of satellite-

delivered programming, called "Rural TV®" to some 70,000 home satellite dish (HSD) subscribers throughout the country.

3. In light of NRTC's experience to date in the DBS and HSD markets, and its mission to expand telecommunications services in rural America, NRTC appreciates this opportunity to comment on the Commission's proposals to allow for the partitioning and disaggregation of PCS spectrum. NRTC believes that the Commission's proposals will foster the early delivery of new telecommunications services in rural America.

II. COMMENTS

4. In response to economic pressures, PCS licensees that acquired licenses at auction may well focus their initial efforts at PCS deployment in the most populated, urban areas with the greatest potential subscribership. They may be less inclined to deploy in rural parts of the country, where market demand may be lower than in more populated areas. The proposals contained in the Commission's Notice, however, would allow NRTC's members and other entities to obtain partitioned or disaggregated PCS spectrum in these instances and to use that spectrum to provide PCS, fixed wireless local loop or other services of value in rural America. The PCS licensees, the partitionees or disaggregatees, and the local communities all stand to benefit as a result of geographic partitioning and disaggregation of PCS spectrum.

A. Partitioning and Disaggregation.

5. In its Notice, the Commission proposes to allow any party that meets the broadband PCS licensee eligibility requirements to acquire a license for a partitioned geographic service area, based on county lines. The Commission also proposes to eliminate the five year build-out requirement for the disaggregation of PCS spectrum. The effect of the proposals, if adopted, would be to allow PCS licensees to "spin off" territories or frequencies to other entities interested in putting them to immediate use in the community.

6. NRTC supports the Commission's efforts to allow more expanded partitioning and disaggregation of PCS spectrum, which should facilitate the delivery of a variety of modern telecommunications services in rural America. By allowing licensees to partition and/or disaggregate their licenses, smaller areas and spectrum blocks could be licensed to entities that did not take part in spectrum auctions because of the tremendous resource demands that auctions present. Additionally, PCS licensees would be able to recoup auction-related expenses for areas within which they do not intend to deploy PCS systems. This approach would permit NRTC's members and others who were unable to obtain spectrum at auction to acquire spectrum from PCS licensees and to use it to provide a new telecommunications services in areas that otherwise may not receive service. Moreover, it would permit service to be provided in these areas on an expedited basis, in advance of the initial deployment schedules of the original PCS licensees.

7. With regard to services for which partitioned or disaggregated spectrum may be used, the current regulations state that a PCS licensee *may* provide any mobile communications service on its assigned spectrum.² The Commission's recently-adopted flexible-use policy added fixed wireless local loop ("WLL") service to the list of permissible communications. However, nothing in the Commission's rules *requires* that PCS licensees provide mobile communications service or fixed WLL service on their spectrum. Similarly, the Notice made no mention of the types of services that partitionees or disaggregatees may provide. Although the goals of the Notice include increasing opportunities for PCS applicants and expanding PCS services, the Notice does not propose that entities use the partitioned or disaggregated spectrum to offer PCS exclusively. NRTC urges the Commission to affirm that partitioned or disaggregated PCS licenses may be used for a variety of new telecommunications services of benefit to rural America, not just PCS.

B. Spectrum Clearinghouse.

8. In its Notice, the Commission requested comment on how it could encourage the creation of private information clearinghouses related to partitioned or disaggregated frequencies. Notice at ¶ 65. The Commission also inquired about procedures that could be utilized to assist small businesses in obtaining available

² 47 C.F.R. § 24.3 (emphasis added).

licenses or spectrum from licensees to meet very limited or defined telecommunications needs.

9. NRTC supports the Commission's efforts to establish spectrum clearinghouses. NRTC's 521 rural electric cooperative and 231 rural telephone system members currently provide service throughout 48 states. Extensive member support is provided by NRTC in connection with its DBS ("DirecTV®") and HSD ("Rural TV®") video distribution services. NRTC also is implementing an extensive Internet Access program that may be valuable in facilitating the partitioning and disaggregation of PCS spectrum. Based on the resources of its members and its own internal capabilities, NRTC may be well positioned to serve as a spectrum clearinghouse to assist members and others in acquiring partitioned and disaggregated PCS spectrum in rural areas. Should the Commission determine to create private information clearinghouses on available spectrum, NRTC will consider complying with any Commission requirements.

III. CONCLUSION

10. NRTC supports the Commission's efforts to allow the geographic partitioning and spectrum disaggregation of PCS licenses. These proposals, if adopted, should create new opportunities for modern telecommunications services to develop and flourish in areas that otherwise may not be served by PCS licensees.

Through partitioning and disaggregation of PCS licenses, many rural areas of the country may receive PCS, wireless local loop and other wireless telecommunications services in advance of the initial deployment schedule of PCS licensees.

13. By allowing PCS licensees to partition their territories and disaggregate their spectrum, the Commission will better promote access to modern telecommunications services throughout the country. To facilitate this process, NRTC may be interested in becoming a spectrum clearinghouse for members and others to acquire use of this new spectrum in rural areas.

Respectfully submitted,

**NATIONAL RURAL
TELECOMMUNICATIONS
COOPERATIVE**

**Steven T. Berman
Vice President, Business Affairs
and General Counsel**

By: 

**Jack Richards
Keller and Heckman LLP
1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001
(202) 434-4100**

Its Attorneys

Dated: August 15, 1996